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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,851	11/06/2001	Takeshi Nishiwaki	Q66613	4464

7590 08/12/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS
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Washington, DC 20037

EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/985,851

Applicant(s)

NISHIWAKI ET AL.

Examiner

James S. McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Request for Reconsideration

1. Applicant's request for reconsideration filed on May 20, 2005 has been entered, wherein the claims 1-19 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 6, 8, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. US 2002/0087522 A1 (MacGregor) in view of U.S. Patent No. 5,568,390 (Hirota).

Regarding **claim 1**, MacGregor discloses a sales supporting system associated with a navigation system to provide store information, said sale system comprising: store information transmitting means for transmitting store information (vendor server 312, see Figure 3) including information on at least goods and prices that stores are dealing in (see paragraph 0013), and positions of the stores (see paragraph 0013); store listing means (via search engine server 308; see Figure 3) for listing stores that deal in goods for desired purchase according to inputs of the purchasers based on the store information transmitted by said store information transmitting means (see paragraph 0014); priority setting means for calculating priority level judging

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parameters P from prices and travel distance (see paragraph 0014); means for notifying the purchasers of store information based on the set priority (via user terminal 304); **[claim 6]** information transmitting means transmits store information through a server (312) that is brought into connection with a general-purpose data communication system (server 308); and **[claim 8]** said store listing means (308) comprises store information storage means (database 320; see Figure 3) for storing the store information transmitted from said store information transmitting means (312), and said store listing means (308) lists stores that are dealing in goods for desired purchases from the store information stored in said store information storage means (320).

MacGregor et al. fails to explicitly disclose means for guiding routes to destinations and means for calculating costs necessary for movements to the destinations.

Hirota et al. teaches the use of means for guiding routes to destinations and means for calculating costs necessary for movements to the destinations (see column 12, lines 34-58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor et al. with the travel cost navigation system taught by Hirota et al., because incorporating travel costs helps a user determine the best purchasing decision, wherein reducing overall costs of purchasing a product.

Regarding **claim 2**, MacGregor et al. discloses all the claimed elements as set forth above for claim 1. MacGregor et al. fails to explicitly disclose means for guiding routes to destinations and means for calculating time necessary for movements to the destinations.

Hirota et al. teaches the use of means for guiding routes to destinations and means for calculating time necessary for movements to the destinations (see column 12, lines 34-58).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor et al. with the travel time navigation system taught by Hirota et al., because incorporating travel time helps a user determine the best purchasing decision, wherein reducing overall time of purchasing a product.

Claims 17 and 18 are directed to methods of supporting sales as analyzed above in detail for system claims 1 and 2. Method claims 17 and 18 are rejected based upon the same analysis used to rejection system claims 1 and 2.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor in view of Hirota as applied to claims 1, 2, 6, 8, 17, and 18 above, and further in view of U.S. Patent No. 6,847,935 (Solomon).

Regarding **claim 5**, the combination of MacGregor et al. and Hirota et al. fail to explicitly disclose setting prices based on positions of the users.

Solomon teaches the use of setting prices based on user locations (rebates based location; see column 8, lines 65-68).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor/Hirota with user location based pricing as taught by Solomon, because users are willing to pay varying prices dependent on the ease of receiving the goods, wherein increasing the sellers profits.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor in view of Hirota as applied to claims 1, 2, 6, 8, 17, and 18 above, and further in view of U.S. Patent No. 6,496,776 (Blumberg).

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Regarding **claim 7**, the combination of MacGregor et al. and Hirota et al. fail to explicitly disclose the use of a narrow area communication apparatus that is provided on a movement route in the vicinity of the store.

Blumberg teaches the use of a narrow area communication apparatus that is provided on a movement route in the vicinity of the store (see Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor/Hirota narrow area communication apparatus that is provided on a movement route in the vicinity of the store as taught by Blumberg, because said communication apparatus allows close proximity advertising, wherein targeting customers most likely to physically visit a store.

6. Claims 9, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor in view of Hirota as applied to claims 1, 2, 6, 8, 17, and 18 above, and further in view of U.S. Patent Application No. US 2001/0018673 A1 (Goldband)

Regarding **claims 9, 10, and 16** the combination of MacGregor et al. and Hirota et al. fail to explicitly disclose the use of a limited time offer.

Goldband teaches the use of a limited time offer (see Abstract)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor/Hirota a limited time offer taught Goldband, because limited time offers encourage customers to more quickly purchase goods, wherein helping the seller reduce undesired inventory.

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7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor in view of Hirota as applied to claims 1, 2, 6, 8, 17, and 18 above, and further in view of Official Notice.

Regarding **claim 13**, the combination of MacGregor et al. and Hirota et al. fail to explicitly disclose the use of saving new information over old information, wherein deleting the old information.

The Examiner takes Official Notice that is old and well known to save new information over old information, wherein deleting the old information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor/Hirota saving information as is well known in the art, because replacing old data with new data reduces the overall size of memory required by a seller.

U.S. Patent No. 4,607,331 (hereinafter “Goodrich”) is cited as factual evidence to support the Examiner’s assertion of Official Notice that replacing the oldest data with the newest data is old and well known (see column 2, lines 55-60).

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor in view of Hirota as applied to claims 1, 2, 6, 8, 17, and 18 above, and further in view of U.S. Patent Application No. US 2002/0016747 A1 (Razumov)

Regarding **claim 15**, the combination of MacGregor et al. and Hirota et al. fail to explicitly disclose the use of prepaying for goods.

Razumov teaches the use of prepaying for goods.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify MacGregor/Hirota with prepaid goods as taught by Razumov, because

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allowing a customer to prepay for goods is beneficial to the seller because the seller is guaranteed revenue even before exchanging the goods.

Allowable Subject Matter

9. Claims 3, 4, and 19 allowed.
10. Claims 11, 12, and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed May 20, 2005 have been fully considered but they are not persuasive.

On page 3, first paragraph, Applicant argues that neither MacGregor nor Hirota teaches or suggests at least, "means for calculating costs C_2 necessary for movements to the destinations via the listed stores respectively" and "priority setting means for calculating priority level judging parameters P from sums of the costs C_2 and prices of the goods...", "as recited in claim 1. The Examiner respectfully disagrees. Hirota teaches means for calculating costs C_2 necessary for movements to the destinations via the listed stores respectively (see column 12, lines 34-58). MacGregor discloses organizing search data based on store location and price. In view of Hirota, the price of going traveling is fully considered and therefore summed with the price of the good when making a purchasing decision.

On page 3, final paragraph, Applicant argues that the Examiner does not address limitations regarding “calculating priority level judging paragraphs P from the predicted values of required times T_2 ”, as set forth in claim 2. The Examiner notes that Hirota teaches addressing time (“time critical”) and cost issues in column 12, lines 33-58.

On page 4, final paragraph, Applicant argues that the limitations of claims 9 and 10 are not disclosed by the reference without pointing to specific limitations. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

On page 5, fourth paragraph, Applicant argues that the Examiner has made extremely liberal use of the concept Official Notice. The Examiner respectfully disagrees. It is the Examiner's position that the use of Official Notice regarding very basic limitations (as required in claim 13) is exactly why Official Notice is allowed in the MPEP. Official Notice is allowed in situations where a reference can be retrieved with little effort. The Examiner has included a teaching reference (Goodrich) to support the Examiner's assertion of Official Notice.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

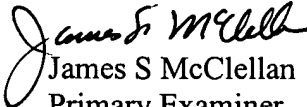
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. McClellan whose telephone number is (571) 272-6786. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James S McClellan
Primary Examiner
Art Unit 3627

jsm
8/5/05